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**FISCAL IMPACT STATEMENT**

**LS 6356**

**BILL NUMBER:** SB 284

**NOTE PREPARED:** Jan 16, 2015

**BILL AMENDED:**

**SUBJECT:** Medical Marijuana.

**FIRST AUTHOR:** Sen. Tallian

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Medical Marijuana Program:* The bill establishes a medical marijuana program and permits caregivers and patients who have received a physician recommendation to possess a certain quantity of marijuana for treatment.

*Department of Marijuana Enforcement:* The bill creates the Department of Marijuana Enforcement (DOME) to oversee the program, and creates the DOME Advisory Committee to review the effectiveness of the program and to consider recommendations from DOME.

It authorizes DOME to grant research licenses to research facilities with a physical presence in Indiana.

*Repeals:* The bill repeals the Controlled Substance Excise Tax and the Marijuana Eradication Program.

*Conformance:* It makes conforming amendments.

**Effective Date:** July 1, 2015.

**Summary of NET State Impact:** Overall, the bill will have minimal net impact on state government. The bill is estimated to most likely increase state expenditures between \$30,000 to \$500,000 to establish the Department of Marijuana Enforcement (DOME) and a legislative advisory committee. However, the costs may be offset with charges for issuing medical marijuana cards to individuals and research licenses to institutions and businesses.

State sales tax collections, if applicable, are limited because the bill does not allow for sales of medical marijuana, but rather allows for possession, growth, or cultivation of limited quantities of marijuana or marijuana plants. It also provides a defense to paraphernalia and certain marijuana possession laws. These defenses may reduce fine revenue and incarceration costs. Repeal of the Controlled Substance Excise Tax and establishment of two new Class B misdemeanors are expected to have minimal fiscal impact.

**Explanation of State Expenditures: Summary:** The bill establishes a new department of state government with four commissioners and an executive director. States without medical marijuana dispensaries (Alaska, Hawaii, Michigan, and Montana) spend between \$22,300 and \$3.6 M for administration of a patient and caregiver registry. One-time start-up costs to purchase equipment for the issuance of identification cards and provide office equipment and computer access. [In Hawaii, the reported startup expenses were \$400,000, which may be similar to the amount that Indiana would spend because they register patients and caregivers and issue cards only.]

The bill also establishes a legislative advisory committee, the cost of which will depend on the budget established by the Legislative Council. In the past for committees of similar size the budget has been \$9,500 per interim.

Marijuana is federally classified as a Schedule I controlled drug with no medically indicated uses. Although 23 states have medical marijuana programs, future federal responses to state initiatives is unknown.

#### Additional Information -

*DOME:* The DOME is comprised of four commissioners appointed by the Governor. Each commissioner is entitled to salary per diem and reimbursement of traveling and other expenses. The commissioners must execute surety bonds of \$10,000 and an oath of office. The DOME will appoint an executive director and may employ all necessary employees, determine their duties, and fix their salaries with the approval of the State Budget Agency.

The DOME will issue medical marijuana cards, advise the General Assembly, and permit and encourage research concerning medical marijuana.

There are 23 states with medical marijuana programs, and most medical marijuana agencies are a division of an existing department of health or licensing. The medical marijuana programs are responsible for licensing or regulating patients and caregivers, dispensaries, and cultivators or manufacturers. The expenditures in other states range from about \$22,300 to \$3.6 M. (Note: Both the top and the bottom of this range are states without dispensaries.)

Of the 11 programs for which expenditure information is available, the average expenditures for 5 programs were over \$2 M and 6 programs' expenditures were about \$370,000. The most important program cost drivers may be the number of people on the registry and the types of licenses available. The following table shows the number of registrants, denial rates (if available), and expenditures.

State	Patients	Caregivers	Denials	Expenditures
Alaska*	917			\$22,277
Arizona	51,783	591		7,415,594
Colorado	117,239			5,262,000
Hawaii*	11,695			410,000
Maine	572	575		466,028
Michigan*	63,628		21.5% Initial; 19.9% Renewal	4,052,782
Montana*	7,150			NA
Nevada	7,491	463		377,000
New Jersey	1,672	197	3	1,600,000
New Mexico	9,760			650,402
Oregon	69,429	34,624	1,103	2,650,000
Rhode Island	4,849	3,415	1 Denied; 3 Pending	589,086

Sources: Various, see below.

\*State does not allow dispensaries.

*DOME Advisory Committee:* This bill establishes the DOME Advisory Committee with 9 members, 4 of whom are voting members and 5 are nonvoting members. Members of the committee are to receive the same salary per diem and traveling and other expense reimbursement paid to legislative or lay members of interim study committees. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members.

In addition to four legislators, the committee consists of a member representing law enforcement, a person having experience with treating medical conditions with marijuana, the Commissioner of the Department of Revenue or a designee, the Director of the Department of Agriculture or a designee, and the State Health Commissioner or a designee. The committee reviews rules and legislative proposals of the DOME and evaluates the marijuana research and development program and the operation of medical marijuana program.

**Explanation of State Revenues:** In other states, the revenues from medical marijuana registration fees and other licenses pay for program expenditures. There is no requirement that the DOME be self-funding, and the revenue from issuance of medical marijuana cards and research licenses will depend on the fees set by the DOME. Sales tax, if applicable, will provide additional revenue to the state General Fund. The amount of revenue from fees and sales tax is indeterminate.

#### Additional Information -

*Medical Marijuana Card:* The bill would allow a person or a caregiver for a person with a treatable medical condition to apply to the DOME to be a qualified patient or primary caregiver. The DOME is to issue a medical marijuana card. The statute requires an application and a physician recommendation, and allows DOME to set other requirements in rules. The DOME may charge up to \$100 for issuance of a medical marijuana card, which will be valid for two years.

The DOME may also issue a research license to an institution or business and charge a reasonable fee for the license.

In other states, revenues from license or registration fees have been set at less than \$100, and reduced fees are charged to patients based on need. Other fees, such as cultivator's licenses, are \$1,000 or more.

*Sales Taxes:* Some states with medical marijuana programs collect sales tax. This bill does not provide for dispensaries or sales of medical marijuana. A sales tax bulletin from the Indiana Department of Revenue indicates that sales of drugs that have been prescribed and filled by a registered pharmacist or licensed practitioner are exempted from sales tax. If state sales tax were to apply, an estimate of collections is indeterminate, but would be based on the number of people who qualify for a medical marijuana card and whether they purchase or cultivate their own medical marijuana.

Estimates and actual sales tax collected indicate that sales tax revenue from medical marijuana ranges from an estimated \$500,000 in Maine with 8 dispensaries to \$58 M to \$105 M in California where there are between 500 and 1,000 dispensaries. States without dispensaries have no reported sales tax collections.

*Controlled Substance Excise Tax Repeal:* Repeal of the Controlled Substance Excise Tax will have almost no fiscal impact on state revenue. The tax is collected on the delivery, possession, or manufacture of controlled substances in violation of state or federal law. The taxes collected between 2010 and 2014 totaled \$890.

*Penalty Provision:* The bill establishes two Class B misdemeanors, one concerning the release of confidential information and the other for fraudulent application for a medical marijuana card. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Marijuana Eradication Programs:* The bill eliminates the marijuana eradication program, which is operated by a county weed control board to eliminate and destroy wild marijuana plants within the county. Average annual expenditures from county marijuana eradication funds between 2011 and 2013 is \$15,510 with nine counties reporting.

*Penalty Provision:* A Class B misdemeanor is punishable by up to 180 days in jail.

**Explanation of Local Revenues:** *Marijuana Eradication Local User Fees:* An optional fee that may be imposed by the court is the Marijuana Eradication fee. The fee is deposited in the county court user fee fund and transferred by the county fiscal body to the marijuana eradication fund. The annual revenue from the marijuana eradication fees was \$18,432 in 2011 with 11 counties reporting and \$23,633 in 2012 with 12 counties reporting.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** DOME, General Assembly.

**Local Agencies Affected:** Trial courts, local law enforcement agencies, county weed control boards.

**Information Sources:** State Budget Agency, Auditor's Data,

<http://dor.wa.gov/Content/GetAFormOrPublication/PublicationBySubject/TaxTopics/MedicalCannabis.aspx>,

<http://www.mpp.org/assets/pdfs/library/State-Medical-Marijuana-Programs-Financial-Information.pdf>,

<http://www.leg.state.vt.us/jfo/reports/2012-02%20Medical%20Marijuana%20Fee%20and%20Tax%20Report.pdf>, [http://www.governing.com/templates/gov\\_print\\_article?id=275343151](http://www.governing.com/templates/gov_print_article?id=275343151),

<http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>,

<http://files.hawaii.gov/auditor/Reports/2014/14-12.pdf>,

<http://www.health.ri.gov/publications/programreports/MedicalMarijuana2013.pdf>,

[https://www.colorado.gov/pacific/sites/default/files/CHED\\_MMJ\\_06\\_2014\\_MMR\\_report.pdf](https://www.colorado.gov/pacific/sites/default/files/CHED_MMJ_06_2014_MMR_report.pdf),

[http://www.michigan.gov/documents/lara/FY\\_2012\\_Medical\\_Marihuana\\_Annual\\_Report\\_Statistics\\_409663\\_7.pdf](http://www.michigan.gov/documents/lara/FY_2012_Medical_Marihuana_Annual_Report_Statistics_409663_7.pdf),

[http://www.michigan.gov/documents/lara/BHCS\\_MMMP\\_PA\\_59\\_2013\\_Report\\_Sections\\_7261\\_and\\_2\\_2013\\_Report\\_FINAL\\_12-26-13\\_443192\\_7.pdf](http://www.michigan.gov/documents/lara/BHCS_MMMP_PA_59_2013_Report_Sections_7261_and_2_2013_Report_FINAL_12-26-13_443192_7.pdf),

[http://www.state.nj.us/health/medicalmarijuana/documents/biennial\\_report.pdf](http://www.state.nj.us/health/medicalmarijuana/documents/biennial_report.pdf),

<http://www.maine.gov/dhhs/dlrs/mmmp/documents/2012-MMMP-Annual-Report.pdf>.

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